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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,157	12/26/2001	Tomasz A. Matraszek	83837RLO	3986

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EXAMINER

CUNNINGHAM, GREGORY F

ART UNIT

PAPER NUMBER

2676

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,157

Applicant(s)

MATRASZEK ET AL.

Examiner

Greg Cunningham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to communications of application filed 12/26/2001.
2. The disposition of the claims is as follows: claims 1-12 are pending in the application.
Claim 1 is the only independent claim.
3. To aid in the correlation of any papers for this application, all further correspondence should be directed to Group Art Unit 2676 (effective 8/03). Please be sure to use the most current art unit number on all correspondence to help us route your case and respond to you in a timely fashion.

Claim Objections

4. Claim 1 is objected to because of the following informalities: "the digital image" should be "a digital image". Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claim 1 is rejected under 35 U.S.C. 102(a) as being disclosed by Parulski, Kenneth A,
PAT-NO: JP02002202986A, hereafter Parulski.

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Claim 1, "1. An image file for storing a digital image and information related to the digital image, including: a) digital image data; b) a user identifier; and c) affective information which relates to the feelings or emotions of the user toward the digital image" is disclosed in Solution of Abstract.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski as applied to claim 1 above, and further in view of Chang et al, (PGPUB-DOCUMENT-NUMBER: 20030035567), hereafter Chang.

A. Claim 3, "The image file of claim 1 wherein the affective information identifies the importance of the image" is disclosed supra for claim 1. However Parulski does not appear to disclose "wherein the affective information identifies the importance of the image", but Chang does in [0008], [0010], [0011], [0014], [0015] and [0047].

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply "personalized metadata to collection of digital image" disclosed by Parulski in combination with the importance associated with "crucial importance to be able to recall impressions in our minds of people we have met before" as associated with stored images as disclosed by Chang supra.

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B. Claim 4, “The image file of claim 1 wherein the image file further includes information related to the capture device” is disclosed supra for claim 1. However Parulski does not appear to disclose, “wherein the image file further includes information related to the capture device”, but Chang does in [0012] – [0015]. Wherein stored image data is associated with an imaging device (i.e. camera) and stored audio data is associated with an audio capture device (i.e. microphone).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply “personalized metadata to collection of digital image” disclosed by Parulski in combination with image and audio storage and associated capture devices thereof, as disclosed supra by Chang.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski as applied to claim 1 above, and further in view of Pierce et al., (US Patent Number 6,327,580), hereafter Pierce.

Claim 5, “The image file of claim 1 wherein the image data is a JPEG compressed image data” is disclosed by Parulski supra for claim 1. However Parulski does not appear to disclose, “wherein the image data is a JPEG compressed image data”, but Pierce does in col. 8, ln. 42 – col. 9, ln. 13.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply “personalized metadata to collection of digital image” disclosed by Parulski in combination with identified user and JPEG compressed image data, as disclosed supra by Pierce.

10. Claims 2, 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski as applied to claim 1 above, and further in view of Zadrozny et al., (PGPUB-DOCUMENT-NUMBER: 20020084902), hereafter Zadrozny.

A. Claim 2, “The image file of claim 1 wherein the affective information further specifies the time or period within a range of times that the classification was performed” is disclosed by Parulski supra for claim 1. However Parulski does not appear to disclose, “wherein the affective information further specifies the time or period within a range of times that the classification was performed”, but Zadrozny does in [0055]. Wherein “the number of occurrences of each event associated with the behavior recorded, the date and time of each event occurrence”.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply “personalized metadata to collection of digital image” disclosed by Parulski in combination with “the date and time of each event occurrence” as disclosed by Zadrozny, and motivated to combine the teachings because it would provide match the behavior with previously recorded behaviors as disclosed by Zadrozny in [0009].

B. Claim 6, “The image file of claim 1 wherein the digital image file includes affective information and user identifiers for a plurality of users” is disclosed by Parulski supra for claim 1. However Parulski does not appear to disclose, “wherein the digital image file includes affective information and user identifiers for a plurality of users”, but Zadrozny does in [0041].

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply “personalized metadata to collection of digital image” disclosed by Parulski in combination with identifying individuals [plurality of users] according to their gestures, as disclosed supra by Zadrozny.

C. Claim 7, “A method for providing a retrieval scheme for stored digital images, using the image file of claim 6, comprising the steps of: a) a retrieval user providing a user identifier; b) using the user identifier provided by the retrieval user to select, from the plurality of affective information, the particular affective information associated with the retrieval user; and c) using the affective information to facilitate image retrieval” is disclosed by Parulski *supra* for claim 1. However Parulski does not appear to disclose “b) using the user identifier provided by the retrieval user to select, from the plurality of affective information, the particular affective information associated with the retrieval user; and c) using the affective information to facilitate image retrieval”, but Zadrozny does in [0041]. Wherein gestures correspond to affective particular information.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply “personalized metadata to collection of digital image” disclosed by Parulski in combination with identifying individuals according to their gestures [affective particular information], as disclosed by Zadrozny, *supra*, and in [0009].

D. Claim 8, “The method of claim 7 wherein the affective information identifies the importance of the image to a plurality of users” is disclosed by Parulski *supra* for claim 1. However Parulski does not appear to disclose “wherein the affective information identifies the importance of the image to a plurality of users”, but Zadrozny does in para. [0045] and [0078]. Wherein “degree of dominance of behavior unit [0045]” and “value [0078]” corresponds to degree of importance.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply “personalized metadata to collection of digital image” disclosed by

Parulski in combination with identifying individuals according to their gestures and corresponding value [importance], as disclosed by Zadrozny, supra, and in [0009].

E. Claim 9, “The method of claim 7 wherein the affective information is used to determine the order of presentation of retrieved images” is disclosed by Parulski supra for claim 1.

However Parulski does not appear to disclose “wherein the affective information is used to determine the order of presentation of retrieved images”, but Zadrozny does in para. [0054], [0073], [0076] and [0078]. Wherein gesture order is used to store and retrieve compressed images.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply “personalized metadata to collection of digital image” disclosed by Parulski in combination with identifying individuals according to their gestures and gesture order, as disclosed by Zadrozny, supra, because it would provide for recognizing patterns of behavior as disclosed by Zadrozny in [0009].

F. Claim 10, “The image file of claim 1 wherein the affective information is provided by monitoring the facial expression of the user” is disclosed by Parulski supra for claim 1. However Parulski does not appear to disclose “wherein the affective information is provided by monitoring the facial expression of the user”, but Zadrozny does in para. [0027]. Wherein gestures “which express a need, desire, or current state of emotional, mental or physical well being of the individual” also incorporate “facial expressions”.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply “personalized metadata to collection of digital image” disclosed by Parulski in combination with “gestures which express need, desire or current state of emotion”,

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as disclosed by Zadrozny, supra, because it would provide for recognizing patterns of behavior as disclosed by Zadrozny in [0009].

G. Claim 11, “The image file of claim 1 wherein the affective information is provided by monitoring the physiology of the user” is disclosed by Parulski supra for claim 1. However Parulski does not appear to disclose “wherein the affective information is provided by monitoring the physiology of the user”, but Zadrozny does in para. [0027]. Wherein gestures “which express a need, desire, or current state of emotional, mental or physical well being of the individual” correspond to physiology of the user.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply “personalized metadata to collection of digital image” disclosed by Parulski in combination with “gestures which express need, desire or current state of emotion”, as disclosed by Zadrozny, supra, because it would provide for recognizing patterns of behavior as disclosed by Zadrozny in [0009].

H. Claim 12, “The image file of claim 1 wherein the affective information is provided by a user interface which enables the user to indicate important images” is disclosed by Parulski supra for claim 1. However Parulski does not appear to disclose “wherein the affective information is provided by a user interface which enables the user to indicate important images”, but Zadrozny does in para. [0015], [0031] – [0034], [0045] and [0078]. Wherein “degree of dominance of behavior unit [0045]” and “value [0078]” corresponds to degree of importance.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply “personalized metadata to collection of digital image” disclosed by Parulski in combination with identifying individuals according to their gestures and

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corresponding value [importance] and user interface, as disclosed by Zadrozny, supra, and in [0009].

Responses

11. Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231. If applicant desires to fax a response, (703) 308-9051 may be used for formal communications or (703) 308-6606 for informal or draft communications.

Please label "PROPOSED" or "DRAFT" for informal facsimile communications. Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Inquiries

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Cunningham whose telephone number is (703) 308-6109.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella, can be reached on (703) 308-6829.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

G. F. Cunningham

gfc

August 27, 2003

Matthew C. Bella

MATTHEW C. BELLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600